

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE: TERRORIST ATTACKS ON :
SEPTEMBER 11, 2001 : **03-MDL-1570 (GBD)(SN)**

This Document Relates To:

Ashton, et al. v. al Qaeda Islamic Army, et al., Case No. 02-cv-06977 (GBD)(SN)

Bauer, et al. v. al Qaeda Islamic Army, et al., Case No. 1:02-cv-07236 (GBD)(SN)

**THE RYAN AND MAHER PLAINTIFFS' MOTION
FOR FINAL DEFAULT JUDGMENT AGAINST THE TALIBAN**

In compliance with the Court's July 11, 2022 Order (MDL ECF Doc. No. 8198), Plaintiffs Patricia Ryan, as Personal Representative of the Estate of John J. Ryan, Deceased, Patricia Ryan, individually in her own right, Kristen Ryan, Laura Ryan, Colin Ryan, Katherine Maher, as Personal Representative of the Estate of Daniel L. Maher, Deceased, and Katherine Maher, individually in her own right (collectively, the "Ryan and Maher Plaintiffs"), by and through counsel, hereby file this Motion For Entry of Final Default Judgment Against the Taliban.

The Ryan and Maher Plaintiffs seek a final default judgment against the Taliban with awards for economic, pain-and-suffering, and solatium damages and pre-judgment interest.

Plaintiff Patricia Ryan as Personal Representative of the Estate of John J. Ryan, Deceased, seeks an award of non-economic damages for conscious pain-and-suffering and economic damages for John J. Ryan's Estate in amounts indicated on **EXHIBIT A**.

Plaintiff Patricia Ryan, individually and in her own right, seeks an award of solatium damages for herself as the widow of said 9/11 Decedent in the amount indicated on **EXHIBIT B**.

Plaintiffs Kristen Ryan, Laura Ryan, Colin Ryan, who were each a minor on September 11, 2001, seek awards of solatium damages as then-minor dependent children of the 9/11 Decedent John J. Ryan, in amounts indicated on **EXHIBIT B**.

A Notice of Amendment was filed on October 14, 2022, *Bauer, et al. v. al Qaeda Islamic Army, et al.*, Case No. 1:02-cv-07236, *Bauer* ECF Doc. No. 188, *Ashton* ECF Doc. No. 1772, MDL ECF Doc. No. 8637, for Plaintiffs Kristen Ryan, Laura Ryan, Colin Ryan, who were minors on September 11, 2001, but each of whom is now an adult.

Plaintiff Katherine Maher, as Personal Representative of the Estate of Daniel L. Maher, seeks an award of non-economic damages for conscious pain-and-suffering and economic damages for Daniel L. Maher's Estate in amounts indicated on **EXHIBIT A**.

Plaintiff Katherine Maher, individually and in her own right, seeks an award of solatium damages for herself as the widow of the 9/11 Decedent in amounts indicated on **EXHIBIT B**.

All of the Ryan and Maher Plaintiffs also seek awards of pre-judgment interest against the Taliban at the rate of 4.96% per annum, compounded annually.

The Ryan and Maher Plaintiffs herein do not seek any ruling that an award of such damages is determinative of the amounts any potential damages awards that may be entered against any Defendant other than the Taliban in this MDL.

The causes of action for which the Ryan and Maher Plaintiffs seek final default judgment are set forth in the *Ashton* Third Amended Consolidated Master Complaint and include: (1) Wrongful Death based on Intentional Murder; (2) Survival Damages based on Intentional Murder; (3) Assault and Battery; (4) Violation of the Anti-Terrorism Act ("ATA"), 18 U.S.C. § 2333; and (5) Violation of the Torture Victim and Protection Act, 28 U.S.C. § 1350.

The Ryan and Maher Plaintiffs further request that their damages be trebled under the Anti-Terrorism Act, 18 U.S.C. § 2333(a) (“ATA”), as sought in the *Ashton* Third Amended Consolidated Master Complaint and as reflected on **EXHIBITS A** and **B**.

The Ryan and Maher Plaintiffs further request permission to file a future application for an award of punitive damages, and to file a future application for an award of the costs of suit, including attorneys’ fees, as provided in the ATA, 18 U.S.C. § 2333(a).

The Ryan and Maher Plaintiffs rely upon the Motion for Default Judgment filed in *Ashton, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-6977 (GBD)(SN), in the form of an affidavit by *Ashton* counsel, Andrew J. Maloney, III, and its exhibits, *In Re: September 11, 2001 Terrorist Attacks*, MDL ECF Doc. No. 1782 through 1782-9, and, also the affidavit by *Ashton* counsel, Andrew J. Maloney, III, and all its exhibits, filed on July 27, 2022, MDL ECF Doc. No. 8275. The Maloney Affidavits address the filing of the *Ashton* complaints, service of process by publication, the Taliban’s failure to answer or respond to the *Ashton* complaints, and the Court’s grant of default judgments on liability to the *Ashton* Plaintiffs, which included the *Bauer* Plaintiffs (including the Ryan and Maher Plaintiffs), on May 12, 2006. MDL ECF Doc. No. 1797.

The Ryan and Maher Plaintiffs also rely upon two Declarations of Dorothea M. Capone, a member of Baumeister & Samuels, P.C., and its exhibits, filed on October 21, 2016, and July 29, 2022, in *Bauer, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-7236 (GBD)(SN), at *Bauer* ECF Doc. Nos. 19 through 19-3, MDL ECF Doc. Nos. 3371 through 3371-3, and *Bauer* ECF Doc. Nos. 168, 168-1 through 168-8, MDL ECF Doc. Nos. 8299, 8299-1 through 8299-8, respectively. Because the Ryan and Maher Plaintiffs were represented by Baumeister & Samuels, P.C., at the time the pertinent events and actions took place that are the subjects of the

October 21, 2016, and July 29, 2022, Capone Declarations, the facts, actions, and documents referenced therein apply to the Ryan and Maher Plaintiffs in the same manner as they do to the other *Bauer* Plaintiffs. The July 29, 2022, Capone Declaration details, *inter alia*, the filing of the complaints (¶ 3), service of process by publication (¶ 4), the Taliban's failure to answer or respond to the *Ashton* complaints (¶ 4), the Taliban's failure to answer or respond to the *Ashton* complaints, and the Court's grant of default judgments on liability to the *Ashton* Plaintiffs, which included the *Bauer* Plaintiffs (including the Ryan and Maher Plaintiffs), on May 12, 2006 (¶ 4). See MDL ECF Doc. No. 1797.

WHEREFORE, Plaintiffs Patricia Ryan, as Personal Representative of the Estate of John J. Ryan, Deceased, Patricia Ryan, individually in her own right, Kristen Ryan, Laura Ryan, Colin Ryan, Katherine Maher, as Personal Representative of the Estate of Daniel L. Maher, Deceased, and Katherine Maher, individually in her own right, respectfully request that their Motion For Entry of Final Default Judgment Against The Taliban be granted and final default judgment with awards of damages against the Taliban, as set forth herein and the attached **EXHIBITS A and B**, be entered in their favor.

Date: October 14, 2022

Respectfully Submitted,

/s/ Timothy B. Fleming

Timothy B. Fleming (DC Bar No. 351114)

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